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Protracted conflicts in the GUAM area and their implications for international peace, security and development

Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/ South Ossetia, Georgia

Report of the Secretary-General

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 67/268, in which the Assembly requested the Secretary-General to submit a comprehensive report at its sixty-eighth session on the implementation of the resolution. The report covers the period from 1 April 2013 to 31 March 2014 and draws on information received from a number of United Nations entities.

2. In accordance with the provisions of the resolution, the report focuses on: (a) the right of return of all refugees and internally displaced persons and their descendants, regardless of ethnicity; (b) the prohibition of forced demographic changes; (c) humanitarian access; (d) the importance of preserving the property rights of refugees and internally displaced persons; and (e) the development of a timetable to ensure the prompt voluntary return of all refugees and internally displaced persons to their homes.

II. Background

3. Following an escalation in conflict in 1992, which caused significant displacement of civilians, armed hostilities between the Georgian and Abkhaz sides ended with the signing in Moscow on 14 May 1994 of the Agreement on a Ceasefire and Separation of Forces (see S/1994/583 and Corr.1). That agreement was preceded by the signing in Moscow on 4 April 1994 of the quadripartite agreement on the voluntary return of refugees and displaced persons (see S/1994/397), in which the parties agreed to cooperate and interact in planning and conducting activities to safeguard and guarantee the safe, secure and dignified return of people who had fled from areas in the conflict zone to the areas of their previous permanent residence. Armed hostilities between the Georgian and South Ossetian sides ended with the 24 June 1992 Sochi Agreement, which established a ceasefire between the Georgian and South Ossetian forces and the creation of the Joint Control Commission and Joint Peacekeeping Forces.

4. Following the hostilities that started in the Tskhinvali region/South Ossetia, Georgia, on 7 and 8 August 2008, the six-point plan of 12 August 2008 and the implementing measures of 8 September 2008 (see S/2008/631, paras. 7-15), international discussions were launched in Geneva on 15 October 2008, co-chaired by representatives of the European Union, the Organization for Security and Cooperation in Europe (OSCE) and the United Nations (see S/2009/69 and Corr.1, paras. 5-7). The international discussions were to address the issues of security and stability and the return of internally displaced persons and refugees. By the end of the reporting period, 27 rounds of the Geneva international discussions had been held, with participants meeting in two parallel working groups.

5. In June 2011, the General Assembly, in its resolution 65/288, approved the budget for the United Nations Representative to the Geneva International Discussions. The establishment of a special political mission has facilitated the continued engagement of the United Nations in the Geneva process. The United Nations Representative and his team are responsible for preparing, in consultation with the co-chairs, the sessions of the Geneva international discussions. In December 2013, the General Assembly, in its resolution 68/248 A, appropriated the programme budget for the biennium 2014-2015 for special political missions,

including for the United Nations Representative to the Geneva International Discussions. Moreover, in my report on estimates in respect of special political missions, good offices and other political initiatives authorized by the General Assembly and/or the Security Council (A/68/327), I included among the proposed resource requirements for the period from 1 January to 31 December 2014 the United Nations Representative to the Geneva International Discussions, which has an open-ended mandate.

6. The United Nations Representative to the Geneva International Discussions and his team are also responsible for preparing, convening and facilitating the periodic meetings of the Joint Incident Prevention and Response Mechanism under United Nations auspices in Gali (see S/2009/254, paras. 5 and 6). The last (35th) meeting of the Mechanism took place on 23 March 2012, and the Mechanism has not been resumed since. Unfortunately, multiple efforts to resume the Mechanism had not yielded results by the end of the reporting period. I call upon all participants to leave political issues aside and to focus on the important conflict prevention nature of the Mechanism with a view to resuming the meetings of the Mechanism as soon as possible. As long as the Mechanism remains suspended, the risk of escalation in incidents on the ground exists. In the meantime, until the meetings of the Mechanism are resumed, the United Nations Representative will continue his bilateral engagement with all stakeholders with a view to keeping communication open and continuing his incident prevention efforts.

7. During the reporting period, participants in Working Group I of the Geneva international discussions continued to discuss the security situation on the ground, with concerns expressed with regard to the installation of fences and excavation of ditches along the administrative boundary line, detentions, procedures for crossings and criminal activities, such as kidnappings for the purpose of ransom collection. They also continued discussions on the key issues of the non-use of force and international security arrangements. International obligations constraining the use or threat of force, without prejudice to the right of individual or collective self-defence, are embodied in the Charter of the United Nations and other international instruments. There were also discussions on steps in the direction of the non-use of force, including unilateral statements by all relevant stakeholders. I would encourage all relevant participants to engage constructively on the issue of the non-use of force.

8. During the reporting period, Working Group II continued to address the situation of displaced persons, including their right of return and other durable solutions, as well as the humanitarian needs of all affected populations and possible humanitarian responses. Continued efforts were made to reach consensus on a framework document affirming the fundamental, internationally recognized principles governing the treatment of displaced persons, the need for humanitarian access and the importance of voluntary return in safety and dignity. While, regrettably, some participants in the Working Group disengaged from work on the framework document, as well as from discussions on the issue of return, I note with satisfaction that all participants in the deliberations expressed their commitment to respecting human rights. Furthermore, I remain encouraged by the constructive engagement by all participants on issues such as freedom of movement, access to basic social services and the provision of other assistance to support vulnerable populations.

9. Working Group II also systematically reviewed the situation on the ground and discussed possible humanitarian measures to address the specific needs of internally displaced persons. Several participants gave a briefing on the humanitarian, infrastructure and development programmes and projects that they were undertaking.

10. Participants continued to exchange views on the human rights situation on the ground. The Office of the United Nations High Commissioner for Human Rights (OHCHR) remained committed to pursuing its proposal for a technical mission in line with the purpose and principles outlined in my previous report (see A/67/869, para. 10). I took note that only the Government of Georgia responded positively to the OHCHR proposal. I invite all stakeholders to ensure access for and to share relevant information with OHCHR and the special procedures mandate holders of the Human Rights Council, as well as to uphold the fundamental freedoms and human rights of all affected people. OHCHR continues to receive allegations concerning, inter alia, impediments to freedom of movement, including of internally displaced persons, to the enjoyment of property rights and to access to religious and cultural sites and education, arbitrary arrests in areas adjacent to the administrative boundary line and poor conditions of detention in the context of alleged illegal crossings. The United Nations High Commissioner for Human Rights will visit Georgia from 19 to 21 May 2014.

11. Another topic that received the sustained attention of all participants was the continued unknown fate of persons who went missing during the conflicts. The understanding shown by all participants of Working Group II for the plight of the families of the missing and the commitments made to engage meaningfully on the issue, in particular by supporting the work of the International Committee of the Red Cross (ICRC), is commendable. While many humanitarian issues remain unresolved, the Geneva international discussions continue to offer an opportunity for participants to engage on such issues in a constructive manner and liaise with United Nations humanitarian agencies, funds and programmes located in Geneva.

12. To allow for more informed debates, special information sessions were conducted in conjunction with the formal rounds of the Geneva international discussions, allowing participants to benefit from the experience and advice of the United Nations, non-governmental organizations (NGOs) and other experts. Participants were given the opportunity to deepen their understanding of, inter alia, humanitarian needs assessment, the value and functions of unilateral commitments and public health issues.

13. While some participants still have some reservations concerning the present format and efficiency of the Geneva international discussions process, ongoing and structured dialogue is crucial to enhancing stability in the region and making progress on the security, humanitarian and other remaining challenges. I reiterate that the Geneva international discussions remain the only forum for relevant stakeholders to meet and address the issues identified in resolution 67/268.

III. Right of return

A. Scope of displacement, return and local integration

14. During the reporting period, the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia conducted a comprehensive registration of 253,392 internally displaced persons, which identified 19,563 fewer individuals but 1,500 to 2,000 more family groups compared with previous registration data. These data indicate that, while the population of internally displaced persons in Government-controlled areas has decreased, those who remain are marrying and starting families. The generational aspects of displacement in the absence of durable solutions are of concern. During its main phase, which lasted until the end of December 2013, the registration took place in 58 municipalities. Mobile teams visited internally displaced persons who were unable to come to the registration centres: in private residences (3,414 homes), in penitentiary institutions (13 institutions) and in medical institutions (8 institutions). The largest numbers of internally displaced persons were registered in Tbilisi and Zugdidi. The re-registration by the Ministry will continue in its central office in Tbilisi until 31 May 2014.

15. While substantial progress was made towards the local integration and relocation of internally displaced persons, it should be noted that they generally are not able to make free and informed choices as to whether to return or to avail themselves of other durable solutions.

16. A number of families who were previously commuting between Gali and Zugdidi on a seasonal basis moved back to Gali, but no precise data quantifying such individual returns to the Gali region or other parts of Abkhazia are available. The authorities in control continue to deny the return of ethnic Georgian internally displaced persons to locations outside the accepted return areas in the Gali, Ochamchira and Tkvarcheli districts.

17. With regard to return to the Tskhinvali region/South Ossetia, there is an indication that some individuals have returned from the Russian Federation, in particular from North Ossetia, but efforts undertaken to promote further return, in particular from the Russian Federation, have not yielded major results. The return of internally displaced persons from Georgia has been routinely denied by the authorities in control, apart from return to the Akhalgori district, which is possible, at times, for those displaced from that area. The Office of the United Nations High Commissioner for Refugees (UNHCR) continues to observe regular movements of people in and out of the Akhalgori district. The intention of the authorities in control to introduce new documentation requirements for crossing the administrative boundary line led to rumours and uncertainty among internally displaced persons, who feared being unable to cross in the future. The lack of documentation required for crossing the administrative boundary line continues to impede the movement of and to isolate an estimated 1,000 to 1,500 internally displaced persons from the Akhalgori district. The authorities in control have agreed in principle to a case-by-case review of the situation of such persons with a view to considering granting permits for movements across the administrative boundary line, on the basis of lists to be provided by UNHCR.

18. UNHCR remains ready to revive consultations on the return of persons of concern to the Akhalgori district with a view to securing the safe and voluntary nature of any such movement. All stakeholders are encouraged to keep return options open and to abstain from any restrictive measures. Moreover, further steps are needed to ease crossing procedures in the area to allow individuals not only to maintain contact with and follow developments in their home communities, but also to make a free and informed choice as to whether to return or to integrate in areas of displacement or elsewhere.

19. While more than 100,000 individuals who were displaced during the 2008 conflict have returned to their homes, most of them soon after the conflict, 20,272 individuals remain in displacement. A participatory assessment conducted by UNHCR on the reintegration of internally displaced persons who returned to the Shida Kartli region indicated that about 34,000 persons who have returned to these adjacent areas continue to have some specific protection needs and therefore still fall under the responsibility of UNHCR. Apart from the negative effects of the enhanced fencing measures along the administrative boundary line, the physical safety and security of the local population, including returnees, remained relatively stable. However, temporary detentions still occur when farmers intentionally or unintentionally cross into these areas, for example, when visiting graveyards, retrieving stray cattle, attending to irrigation channels or transiting to and from work in their fields. I am pleased that the Joint Incident Prevention and Response Mechanism meetings of the Ergneti have in some instances helped in negotiating the quick release of arrested farmers in such cases.

20. The primary remaining protection and reintegration challenges relate to shelter rehabilitation needs and limited livelihood opportunities. Additional measures undertaken by the Russian Federation border guards, including the use of fencing and increased patrols, have complicated the maintenance of irrigation channels, blocked traditional access routes and trails and resulted in a general feeling of uncertainty and insecurity. A human security assessment conducted by UNHCR in 55 villages along the administrative boundary line in late 2013 concluded that the majority of the population feels threatened, insecure and worried about their future. The inability to access fields, orchards, traditional grazing grounds, forests and markets has reduced income and employment opportunities and further limited communication and relations between families living on opposite sides of the administrative boundary line. To mitigate the most harmful impact on the survival mechanisms and livelihoods of the population, UNHCR, the United Nations Development Programme (UNDP), the European Union, the United States Agency for International Development, the Swiss Agency for Development and Cooperation and a number of embassies provided winterization assistance as well as targeted individual support to the most vulnerable. The interim governmental commission established by the Government of Georgia to address the needs of affected communities in villages along the dividing line has also mobilized State funds for investment in villages affected by fencing to develop infrastructure relating to irrigation and drinking water, roads, education, agriculture, shelter, heating and health.

21. The Government of Georgia continues to pursue two main goals: the creation of conditions for dignified and safe return and the improvement of the socioeconomic conditions of internally displaced persons, serving their integration. The State strategy is complemented by the action plan for internally displaced

persons, now extended until the end of 2014. A further extension of the action plan is being prepared. The Government is in the process of providing durable housing to at least 1,600 families in 2014 while at the same time moving ahead with the privatization of living space already allocated. The Government's legislative reform process over the past 12 months concluded with the entry into force in March 2014 of new legislation regarding internally displaced persons.

22. The new national legislation governing the treatment of internally displaced persons, effective March 2014, has clarified a number of issues and enhanced the protection of this population against discrimination. The Law on the Forcibly Displaced Persons Persecuted from the Occupied Territories of Georgia introduces (a) a definition of internally displaced persons that is more closely aligned with the Guiding Principles on Internal Displacement; (b) the equal treatment of internally displaced persons living in collective centres and private accommodation; (c) an increased monthly allowance for internally displaced persons that remains status-based; and (d) the termination of monthly allowances for internally displaced persons whose income exceeds 1,250 lari per month. It also foresees the issuance of new internally displaced person cards, which now also confirm lawful possession of housing. I reiterate that the rights of all internally displaced persons, as defined in the Guiding Principles on Internal Displacement, must be respected and protected in law and in practice.

23. Relocations, and related evictions, conducted in the context of the Government's efforts to provide internally displaced families with durable housing solutions have in the past caused grievances among internally displaced persons. Upon advocacy on the part of UNHCR and other actors, the Government has adjusted its approach and is now offering more housing solutions in urban and economic centres and is trying to avoid relocations from urban areas to more remote locations. The level of dissatisfaction among internally displaced persons regarding the housing offered to them has therefore considerably decreased. Other efforts, such as rural housing projects, which combine the provision of shelter with agricultural land, have expanded the housing options. However, considering the total needs, durable housing solutions remain limited and alternative solutions deserve consideration. The Government's procedures, developed with a view to enhancing the transparency of the selection and allocation process and the rights of internally displaced persons, were generally respected.

24. Given the scale of the displacement, challenges concerning the integration of internally displaced persons remain. The Government of Georgia assessed that, subject to inflation and exchange rate fluctuations, by the end of 2014 $1.3 billion would still be required to meet the remaining housing needs of internally displaced persons. This is the estimated cost of providing some 33,000 families with accommodation in urban areas such as Tbilisi, Batumi and Kutaisi. According to the Government, by March 2014, 119,324 internally displaced persons were still living in collective centres, while 134,068 internally displaced persons lived in private accommodation. It should also be noted that challenges also remain for those in the latter category, as their living conditions in private accommodation are often as bad as or even less favourable than those found in collective centres.

25. Of course, the provision of durable shelter, while essential, is not the only aspect of integration. The socioeconomic aspects, such as sustainable livelihoods and access to quality education, medical and social services, must also be addressed.

While the United Nations agencies, funds and programmes, together with donors and other stakeholders, remain engaged and continue to assist the Government in protecting and ensuring the rights of the affected populations, acute humanitarian crises in other parts of the world have had a negative impact on the funding level for humanitarian projects in Georgia. Moreover, further progress in integrating and improving the living conditions of internally displaced persons is becoming less a question of humanitarian response and more a matter of mainstreaming their interests into broader development efforts. As time passes, the non-shelter-related needs of internally displaced persons are increasingly similar to or the same as those of the poorer segments of the population not directly affected by displacement. While the adoption of a livelihood strategy for internally displaced persons is a welcome development, it is now crucial and urgent that the socioeconomic needs of internally displaced persons be addressed alongside those of the local population in the context of national and regional development agendas. The costs of meeting the needs of underdeveloped and impoverished regions are substantial and require increased State budget allocations as well as donor support in order to make a difference that is felt by the population.

26. I would encourage the authorities to ensure that regions hosting displaced populations and internally displaced persons are themselves able to fully benefit from development programmes. In this respect, and in order to bridge the gap between humanitarian response and development activities, UNDP and UNHCR have expanded their joint programme aimed at improving the livelihoods of internally displaced persons and returnees persons beyond Shida Kartli to western Georgia. Preparations are under way for a similar programme for returnees and the local population in Abkhazia.

27. It is estimated that over 45,000 people have returned to their homes in the Gali district. Progress has been made in their reintegration process, although important needs and protection challenges remain. While 1,000 to 1,500 of the most vulnerable returnee families remain in urgent need of assistance, shelter progammes in Abkhazia, with the exception of one programme of the Danish Refugee Council, have come to a halt, following the decision by UNHCR to discontinue shelter support for returnees in 2013 owing to a lack of resources. Among those still displaced, the majority informed UNHCR that one of the most important preconditions for return is shelter assistance. The absence of substantial shelter programmes in Abkhazia is therefore a strong disincentive to return. Those who returned to Abkhazia are officially considered internally displaced persons by the Government of Georgia and as such are eligible for assistance. Seasonal movements related to agricultural activities as well as family visits continued to be observed. Such movements to Abkhazia took place primarily across the administrative boundary line but also directly from the Russian Federation. While more precise and comprehensive, independently verified data on the numbers and profiles of the returnees and on the other conflict-affected communities residing in the Gali district are not available, I call upon the relevant sides to take further steps in order to clarify and acknowledge the number of returnees and to better understand their profile, current situation and remaining vulnerabilities and needs. UNHCR and other relevant United Nations agencies are ready to offer advice and technical assistance in such efforts. Moreover, I encourage all participants in the Geneva international discussions to maximize the use of this forum for the provision and exchange of updated data related to displacement and progress made towards return.

28. During the reporting period, a number of developments had a positive impact on the humanitarian and security situation of the population in the Gali region and on the reintegration prospects of those who had returned or were in the process of doing so. These included a variety of infrastructure and livelihood initiatives financed by the international community, such as the construction of 47 new houses and the rehabilitation of 30 existing houses, repairs to the hospitals in Saberio and Gali town and the construction in Gali of a special playground for children living with disabilities. In the course of 2013, measures financed by the Russian Federation as part of the Complex Plan of Social and Economic Development of Abkhazia included the continuation of the asphalting and the further improvement of the Psou-Sukhumi road, the rehabilitation of electricity transportation infrastructure and the repair of schools, hospitals and other social infrastructure projects. The total amount of Russian Federation funding for reconstruction in Abkhazia in 2013 was 12,666.9 million roubles. This amount included 1,803.8 million roubles from a new three-year (2013-2015) Russian Federation-funded assistance programme. It is anticipated that an additional 3,274 million roubles will be disbursed in 2014 to finalize up to 55 ongoing projects

29. Overall, more progress was also observed in relation to security on the ground with respect to the local Gali population. The practice of extortion, common in earlier years, was further reduced, and local farmers welcomed the initiation of criminal procedures against two local officials on charges of extortion during the hazelnut harvest season. Unfortunately, this positive trend was overshadowed by a series of kidnappings perpetrated mainly by local criminal groups for the purpose of ransom collection. Most of the victims were people with money in cash or cash crops, such as hazelnut harvests, or people who are known to have well-to-do relatives in Georgia or abroad. On 15 and 24 May 2013, respectively, the authorities in control and Russian Federation border guards officially opened the long-expected four new pedestrian crossing points, three in the lower and one in the upper part of the Gali district. Another crossing point for vehicles used by the Inguri hydroelectric power station, located in the upper part of the Gali district, was also opened. It was observed that the opening of the new crossing points, together with that of the central Inguri Bridge, which also serves as a crossing for vehicles, have ensured a relatively orderly crossing for the local population.

30. Despite the improvements noted in the present report, protection and reintegration challenges still exist. While generally acknowledging some progress and expressing appreciation for the assistance received, the local population do not yet consider the situation to be "fully normalized", and a sense of insecurity still prevails. Remaining protection concerns expressed by returnees relate to (a) freedom of movement, in particular the longer-term perspective, as messages received are perceived as not always being consistent; (b) documentation required to exercise freedom of movement, to enjoy rights and to gain access to services; (c) access to education, including higher education, and language of instruction; (d) secure access to quality health-care facilities (on both sides of the administrative boundary line); (e) occasional incidents of discrimination, including those related to documentation and access to services; and (f) the denial of effective protection against crime and adequate response to sexual and gender-based violence. A significant segment of the population in the Gali, Tkvarcheli and Ochamchira districts has no valid documentation. As a result of the investigation into possible wrongdoing during the process of issuing Abkhaz documents, some 1,188

individuals in the same three districts have lost or will lose their Abkhaz documentation. This remains a serious concern. The situation is aggravated by a sense of insecurity on the part of the local population caused by fears that they may be left without documents, which may negatively affect their freedom of movement, employment and business registration and have other, related consequences.

31. Since the conflict in August 2008, the United Nations agencies, funds and programmes have had no operational access to the Tskhinvali region/South Ossetia and are therefore not in a position to verify or closely monitor displacement or return movements. However, in preparation for the rounds of the Geneva international discussions, the co-chairs and United Nations staff were able to visit the region and familiarize themselves with the latest developments and with the rehabilitation efforts undertaken.

32. Information made available to UNHCR by the Federal Migration Service of the Russian Federation indicates that, as at 1 January 2014, 65 persons (belonging to 56 families) from Georgia enjoy refugee status in the Russian Federation. An additional 697 persons (belonging to 538 families) from Georgia, including from Abkhazia and the Tskhinvali region/South Ossetia, currently hold temporary asylum status in the Russian Federation. Of that number, 104 persons (belonging to 88 families) were granted temporary asylum in 2013. No organized returns from the Russian Federation to areas covered by the present report were conducted in 2013, and no information is available from the Federal Migration Service on any spontaneous returns. The actual number of persons displaced from Georgia residing in the Russian Federation is considered to be significantly higher, since many are not reflected in the official statistics, having regularized their residence status outside of refugee protection mechanisms or having lost their refugee status upon the acquisition of Russian citizenship.

B. Institutional framework and operational measures

33. In 2005, UNHCR, the Danish Refugee Council, the Norwegian Refugee Council and the Swiss Agency for Development and Cooperation developed, in consultation with all stakeholders, an initiative entitled "Strategic directions: promoting confidence-building measures for displaced and war-affected persons in Abkhazia". The initiative was aimed at supporting a bottom-up peacebuilding approach based on self-reliance and community involvement and integrates protection and assistance efforts by monitoring the situation of returnees, addressing their concerns in discussions with the relevant authorities and providing targeted assistance. Since April 2009, the initiative has been complemented by a strategic framework for continued assistance, which seeks to achieve durable solutions for returnees through integrated protection and assistance activities and the promotion of their rights, with a view to preventing renewed displacement of the population in the Gali, Ochamchira and Tkvarcheli districts. Such efforts bring together as strategic partners, under the overall coordination of the United Nations Resident Coordinator, UNHCR, UNDP, the United Nations Children's Fund (UNICEF), the Swiss Agency for Development and Cooperation, international NGOs (Action against Hunger, the Danish Refugee Council, Première urgence and World Vision International), as well as a number of additional humanitarian actors in an observer capacity.

34. In July 2010, the Government complemented its "State strategy on occupied territories: engagement through cooperation" (adopted by Order N107 of 27 January 2010) with the action plan for engagement (adopted by Order N885 of 3 July 2010, amended on 26 January 2011). The plan envisages the undertaking of a number of steps aimed at building trust and confidence among divided communities. Those measures were followed in October 2010 by the issuance of the regulation of the Government of Georgia on the approval of modalities for conducting activities in the occupied territories of Georgia. In that context, United Nations agencies, funds and programmes will continue to engage in humanitarian action on the basis of their respective mandates and within the framework of multilateral and bilateral agreements governing privileges and immunities of the United Nations.

35. In my previous report (see A/67/869, para. 35), I informed the General Assembly of the declared intention of the Government of Georgia to pursue a more open form of engagement. In that regard, the Government's decision of 1 January 2014 to rename the State Ministry for Reintegration the State Ministry for Reconciliation and Civic Equality eliminated one of the stated objections of the authorities in control in Abkhazia and the Tskhinvali region/South Ossetia to participating in direct dialogue. At the same time, draft amendments to the Law on Occupied Territories, which envisaged softening criminal liability in case of violations of the law, were inconclusively debated in Parliament in May 2013 and deferred for further consideration. I regret to report that Parliament did not consider these amendments again during the reporting period. Ambiguities both in the current legislation and between the Law on Occupied Territories and the State strategy on occupied territories complicate the operational environment for international and local actors involved in humanitarian, peacebuilding and other activities and constrain the development of an enabling environment for more direct interaction.

36. The status-neutral liaison mechanism established by UNDP in 2012 (see A/65/846, para. 21) continued to operate during the reporting period, including in facilitating the delivery of vaccines, medicine and other forms of humanitarian assistance to Abkhazia. This has proved to be a valuable tool not only in supporting the implementation of humanitarian projects, but also in connecting and facilitating dialogue between the divided communities. The effectiveness of the mechanism is based in large part on the fact that its status-neutral and human rights-based approach is accepted and supported by all sides. In this regard, the mechanism offers an example of an effective approach that, with genuine will and readiness to compromise, may be replicated in other spheres of activity. At the same time, I would encourage all parties and stakeholders to consider establishing such a mechanism to help address the humanitarian and other needs of the population living in the Tskhinvali region/South Ossetia.

37. During the reporting period, United Nations agencies, funds and programmes continued to respond to humanitarian needs. UNICEF continued to focus on access to quality health care, education and social protection for vulnerable children and youth in rural and returnee communities. Together with UNDP, UNICEF continued to strengthen routine immunization practices, provided equipment to medical institutions and organized training for medical professionals focusing on maternal and child health care, HIV/AIDS, sexually transmitted infections, oncology, healthful lifestyles and emergency medical care, as well as information technology skills. A database on pregnant women/pregnancy was also developed. In addition, UNDP supported the rehabilitation and re-equipping of the cervical cancer screening

centre in Sukhumi. UNICEF continued to provide 48 rural medical points within social community centres with basic equipment, essential drugs and training and carried out public health promotion and communication activities. It also continued hygiene promotion and education in schools, including with respect to improved access to water and sanitation. In cooperation with World Vision International and local partners, UNICEF further continued to provide basic social services for children living with disabilities and their families. It also engaged in training education professionals in modern teaching methodologies for preschool and primary education. In addition, it continued to support youth participation and development, as well as confidence-building, through 36 youth clubs established across the conflict-affected regions of Abkhazia, Samegrelo and Shida Kartli.

38. During the reporting period, UNDP paid special attention to youth in returnee communities and their connectivity to various international educational sources. In collaboration with local NGOs working on youth activities, a UNDP-created network of seven computer-based training centres offered access to information technology and training to more than 1,100 local beneficiaries. Young students were offered internationally recognized information technology certifications and English language classes with certification, enabling them to access graduate and post-graduate education abroad.

39. UNHCR, in partnership with local and international NGOs, continued to address obstacles to sustainable return by providing a limited number of individual cash grants and essential household items to vulnerable families, legal advice and counselling in relation to documentation issues and access to rights and services, shelter repair and rehabilitation, and income-generating opportunities. Moreover, efforts to strengthen the prevention of and response to sexual and gender-based violence were undertaken through, inter alia, medical, legal and psychosocial counselling and awareness-raising campaigns. Overall, these activities reached out to more than 1,000 households in Abkhazia, primarily in the Gali district.

40. The issue of freedom of movement across the administrative boundary line has security, humanitarian and human rights dimensions and remains of utmost importance to the local population. Developments during the reporting period were marked by two trends: enhanced control and formalization of crossings. On the other hand, so-called "borderization" measures, including the blockage of roads and foot paths as well as increased and more systematic surveillance by Russian Federation border guards and strict fining practices, were reported. On the other hand, the local population was in principle able to continue to move across the Inguri Bridge and the simplified permit system introduced in 2012, which facilitates crossing, is being upheld. As referred to in paragraph 29 above, five new crossing points were made operational. Four additional crossing points for use only by pedestrians were established in the following locations in the lower and upper Gali region: (a) Otobaia-2; (b) Nabakevi/Nabakia; (c) Tagiloni/Taglan; and (d) Saberio/Papanrkhua. The fifth newly opened crossing, at Lekukhona/Alekumkhara, is specifically designated to serve vehicle crossings for Inguri hydroelectric power station employees. The crossing points are operational from 7 a.m. to 8 p.m. every day, and multiple documents are allowed to be used by those who are crossing. I welcome and encourage all steps that would facilitate the freedom of movement and freedom of travel of all segments of the local population and allow their movement and travel in safety and dignity.

41. I have taken note of encouraging information on ambulance services allowed across the administrative boundary line, according to which pragmatic practice has been established to the effect that when medical transportation is needed, patients are brought by one ambulance to the Inguri Bridge crossing point and then picked up by another ambulance that transports them further on the other side. In many cases the Joint Incident Prevention and Response Mechanism hotline, which is still operational, was used to inform those on both sides about the need for medical transportation. Although limited in scope and effect, these ambulance services are a testimony to emerging good cooperation in jointly addressing humanitarian concerns.

42. However, there were some allegations that the closure of the Inguri checkpoint during the night and the denial of access to other crossing points had caused delays in reaching proper medical services, resulting in fatalities. While the alleged incidents, their background and the possible connection between the closure of crossing points and the deaths of individuals could not be fully verified, it is critical that neither the selection of medical services nor access thereto be influenced by political considerations. Persons in need should be able to gain access to medical attention wherever it can be offered most quickly and at the highest attainable standard. I call upon all stakeholders to exercise maximum care and flexibility in this regard.

43. The local population in the Gali district, including returnees, remains concerned about its freedom of movement, its continued contact with family members and friends residing on the other side of the Inguri River and its access to social infrastructure, including medical facilities and markets in the Zugdidi district. The development and implementation of a crossing regime that allays those concerns remains crucial for improving the living conditions of the local population, advancing the reintegration of returnees and preventing renewed displacement. In that context, it is essential to identify and implement solutions for the provision of documentation in conformity with international law, including international human rights law, and the principles governing the prevention and reduction of statelessness. There were reports that schoolchildren at the Saberio/Pakhulani, Khurcha/Nabakevi and Tagiloni/Ganmukhuri crossing points were not allowed to cross in order to attend school. I urge the relevant authorities to take pragmatic steps to solve this recurring problem and allow children with special permits to cross at convenient locations.

44. The principles and factors governing the implementation of the return of internally displaced persons outlined in my report of 24 August 2009 (A/63/950), particularly its paragraphs 8 to 14, remain valid. There is a complex nexus between the individual right to voluntary, safe and dignified return and the establishment of conditions conducive to such return. The individual's right of return, in the case of an internally displaced person, derives from his or her right to freedom of movement as stipulated in article 12, paragraph 1, of the International Covenant on Civil and Political Rights and, in relation to a refugee, from article 12, paragraph 4, of the Covenant, according to which "no one shall be arbitrarily deprived of the right to enter his own country". In accordance with article 12, paragraph 3, of the Covenant, the freedom of movement, as established in article 12, paragraphs 1 and 2, can be subject only to restrictions "which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights" recognized in the

Covenant. Progress made with respect to integration, locally or by resettlement, does not result in a loss of the right of return.

45. I reiterate that the right of return and its exercise by an internally displaced person cannot therefore be directly linked to political questions or the conclusion of peace agreements. It is essential to recognize return as both a human right and a humanitarian issue that must be addressed irrespective of any solution to an underlying conflict. At the same time, it is primarily for the individual to assess the risks and make an informed choice as to whether or not to return at a given time. In doing so, a displaced person must be able to take into account all factors that could affect his or her safety, dignity and ability to exercise basic human rights.

46. The United Nations is committed to assisting States in the search for durable solutions for displaced populations, and its engagement is based on the understanding that voluntary return in safety and dignity is one durable solution, the other two being local integration and resettlement. The role of the United Nations in the facilitation, design and implementation of organized return operations must be guided by the need to avoid causing harm or contributing to the exposure of persons of concern to possible human rights violations. Therefore, activities related to organized returns must be based on a careful risk assessment, taking into consideration the existing security and human rights conditions and concerns, access to livelihoods and basic services and the voluntary nature of return. Unhindered humanitarian access and the ability of the United Nations and its mandated agencies, funds and programmes to effectively monitor all of these factors is another aspect to be taken into account.

IV. Prohibition of forced demographic changes

47. Relevant international human rights standards should guide managed population movements, including evacuations, and thereby strictly limit forced movements, including those that result in demographic changes. The principles and provisions of international law mentioned in my previous report (see A/67/869, para. 48), as well as non-refoulement obligations governing the protection of refugees and others who flee their homes as a result of or in order to avoid the effects of armed conflict or situations of generalized violence, remain fully applicable.

48. While no major new displacement was observed during the reporting period, the demographic consequences of earlier displacement remain. In that context, I would like to recall once again the observations of my former Representative on the Human Rights of Internally Displaced Persons in his report of 14 January 2009 (A/HRC/13/21/Add.3 and Corr.1 and 2, paras. 7-14) and referred to in my report of 17 June 2010 (A/64/819, paras. 22 and 23).

V. Humanitarian access

A. International legal foundations governing humanitarian access

49. The need to establish and maintain humanitarian space is essential in order to effectively meet the humanitarian needs of conflict-affected and displaced

populations, to mitigate suffering and to enable United Nations agencies, funds and programmes to exercise their mandates. In that context, it remains important that all sides respect their obligations and act in good faith to fully implement the principle of humanitarian access, which is rooted in international humanitarian and human rights law. The free passage of relief goods and the facilitation of humanitarian operations are correlated to a number of human rights, including the right to life, the right to a decent standard of living and the right to protection against discrimination. Moreover, building on the practice of the United Nations human rights treaty bodies, there is growing acceptance that the obligation of States to respect, protect and fulfil human rights includes an obligation to invite, accept and facilitate international (humanitarian) assistance, in particular if the State's resource capacities or other obstacles, such as lack of effective control of parts of the territory, limit its capacity to effectively address all humanitarian needs.

50. In the context of international conflict situations, international humanitarian law requires the establishment of conditions for rapid and unimpeded passage of all relief consignments, equipment and personnel. In non-international conflicts, States must organize relief actions for the civilian population, without any adverse distinction. The universal acceptance of those rules has established, as a norm of customary law in both international and non-international conflicts, that parties to a conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.

B. Operational challenges

51. Following the amendments introduced to the Law on Occupied Territories, after taking into consideration recommendations issued by the European Commission for Democracy through Law (Venice Commission) of the Council of Europe in October 2010, the Government of Georgia issued its regulation on the approval of modalities for conducting activities in the occupied territories of Georgia, which, inter alia, serves as the guideline for the implementation of the Law. During the reporting period, the issuance of the modalities had no impact on the activities of United Nations agencies, funds and programmes. In the light of the ambiguity of some provisions of the modalities, allowing for a significant degree of discretion and potential arbitrariness, a further review and possible reform of these norms by the Government would be welcomed. Such a review should fully take into account the international legal foundations governing humanitarian access as outlined above and the practical concerns of humanitarian and development actors operating on the ground.

52. The United Nations agencies, funds and programmes were able to implement protection, humanitarian assistance, recovery and development activities in Abkhazia as planned. However, ongoing humanitarian needs notwithstanding, it is widely recognized, including by the international donor community, that needs have increasingly shifted from humanitarian assistance towards early recovery activities and the delivery of more sustainable support. The United Nations Resident Coordinator is facilitating an inclusive dialogue on this matter among international donors and with relevant authorities.

53. On 28 January 2013, the UNHCR Field Office in Gali was informed in writing that it "should change the geographical focus of its activities and relocate all of its

current and planned projects to the Gali district of the Republic of Abkhazia" and was advised "to complete the current stage of the ongoing projects in all districts of the Republic of Abkhazia excluding the Gali district until 1 May 2013" and to make known "the completion of the adjustments of its activities". Almost identical communications were received by a number of international NGOs operating in Abkhazia. However, UNDP and UNICEF did not receive a similar communication, nor did Médecins Sans Frontières.

54. Despite this, UNHCR did not experience any negative impact on the exercise of its international protection mandate serving displaced populations in Abkhazia, since its projects and activities focus on the returnee areas and subsequent negotiations have clarified that assistance to individual persons of concern residing beyond the Gali region would still be provided under the existing projects. A number of NGOs, however, have had to adjust their projects. Some have expressed concern that a number of humanitarian needs outside the Gali region may not be sufficiently addressed and that the strict guidance received may have a negative impact on their donor support. The impact of these measures on humanitarian access and aid operations, and ultimately on the situation of vulnerable populations, requires continued careful monitoring.

55. Given the need for a proper transition from humanitarian assistance through recovery to longer-term sustainable development, it is important to avoid gaps in the transition process and ensure that the remaining humanitarian needs as well as contingency considerations are fully met. In this regard, I reiterate my call for respect for the international principles governing humanitarian access, for flexibility and for practical approaches and measures to be taken by all stakeholders therein. In addition, consultations must continue among all relevant stakeholders in order to ensure the flow of up-to-date information on the humanitarian needs of the population and to improve coordination.

56. During the reporting period, discussions were renewed on possible humanitarian access for the United Nations to the Tskhinvali region/South Ossetia. During several visits to Tskhinvali, Akhalgori and Znauri, the United Nations Representative and the other co-chairs of the Geneva international discussions were able to witness further progress on a number of ongoing humanitarian, infrastructure and reconstruction initiatives, including water projects undertaken by OSCE and road construction, which has helped to reduce by more than half the travel time between Tskhinvali and the Akhalgori valley. I also take note of positive efforts to preserve or prevent further alteration and decay of the cultural heritage and to prevent the removal of artefacts from the region, including through an agreement by the participants in the Geneva international discussions to work jointly on the issue. United Nations proposals to build on previous humanitarian activities on the ground, however, have not materialized. Access for the United Nations humanitarian agencies has not been possible owing to the continuing lack of agreement on the modalities governing humanitarian access. At the same time, ICRC continued to implement a number of projects throughout the area and a number of complementary medical activities are being explored by NGOs.

VI. Property rights of refugees and internally displaced persons

57. Property-related issues remained on the agenda of Working Group II of the Geneva international discussions. Obstacles to resolving those issues, as well as my call upon all parties to adhere to the principles on housing and property restitution for refugees and displaced persons (referred to as the "Pinheiro principles") and the underlying norms of international law, including international human rights law, as outlined in my previous report (see A/67/869, paras. 58-60), remain valid.

VII. Timetable for the voluntary return of all refugees and internally displaced persons and work towards durable solutions

58. No timetable for the voluntary return of all refugees and internally displaced persons has been developed, given the prevailing environment and continued discussions among the parties. Working Group II of the Geneva international discussions did not deal with the issue of voluntary return, owing to the unwillingness of some participants to discuss the matter. I reiterate that as long as the conditions for organized returns in safety and dignity are not fulfilled and mechanisms for property restitution are not established, the design of a comprehensive timetable or road map for returns must remain an open matter. Those challenges should not prevent the parties from working towards identifying durable solutions for all displaced persons, giving particular attention to the implementation of the right of return. I would like to reiterate my call upon all participants in the Geneva international discussions to engage constructively on this issue, building on international law and relevant principles.

59. In the absence of conditions conducive to organized return and appropriate implementation mechanisms, the United Nations agencies, funds and programmes will continue to concentrate their efforts on providing the conflict-affected populations, including returnees or persons in the process of returning, with assistance and support for their reintegration. United Nations agencies, funds and programmes remain committed to proceeding at the appropriate time, in consultation and cooperation with all parties concerned, with the development of a timetable or road map addressing all components outlined in my report (A/63/950), in particular its paragraph 20.

VIII. Conclusion

60. Over the past five and a half years, the Geneva international discussions, co-chaired by the European Union, OSCE and the United Nations, have remained the single forum for the key stakeholders to discuss security and stability and humanitarian issues, in particular in relation to the return of refugees and internally displaced persons. Those efforts, together with humanitarian engagement by a variety of United Nations agencies, funds and programmes and other actors, have contributed to some improvements in the security and humanitarian situation on the ground.

61. Many security, humanitarian, human rights and development challenges, however, remain unresolved. Despite the difficult nature of the discussions, the

complexity of the issues and divergence in the positions, the participants in the discussions have continued to engage on a regular basis. In cooperation with partner organizations, the United Nations-facilitated information sessions on relevant best practices and lessons learned have helped to enrich the formal sessions of the Geneva international discussions. The United Nations stands ready to continue to support such information-sharing along with its further humanitarian and development engagement on the ground.

62. While I noted with satisfaction the constructive continuation of the meetings of the Joint Incident Prevention and Response Mechanism in Ergneti, I regret that the meetings of the Mechanism in Gali have remained suspended since April 2012. In order to resume the meetings of the Mechanism in Gali, I urge all participants to work with the United Nations Representative to find a solution based on the proposals for the Mechanism of 18 February 2009. Continued and more constructive efforts are needed to reach an agreement on practical steps to further strengthen the security situation and meet the pressing humanitarian concerns of the affected population, including internally displaced persons. While I am encouraged by their full commitment to the process, I once again call upon all stakeholders to uphold their engagement in the Geneva international discussions and to preserve and expand humanitarian space. I also urge donors to continue and strengthen their support for the multifaceted humanitarian, development and confidence-building efforts.